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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

In re E.L., a Person Coming Under the
Juvenile Court Law.

SANTA CLARA COUNTY
DEPARTMENT OF FAMILY AND
CHILDREN'S SERVICES,

Plaintiff and Respondent,

v.

D.R.,

Defendant and Appellant.

H043373, H043661
(Santa Clara County
Super. Ct. No. 115JD23161)

I. INTRODUCTION

D.R. is the father of E.L., the child at issue in this juvenile dependency proceeding. In case No. H043373, the father appeals from the juvenile court's orders at the six-month review hearing. (See Welf. & Inst. Code, § 366.21, subd. (e)(1).)¹ In case No. H043661, the father appeals from the juvenile court's orders terminating his reunification services after a contested 12-month review hearing. (See § 366.21, subd. (f)(1).) The father challenges the termination of his reunification services, contending the juvenile court erred by finding that he was provided with reasonable

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

services. For reasons that we will explain, we will affirm the juvenile court's orders at the 12-month review hearing and dismiss the father's appeal from the orders at the six-month review hearing.

II. BACKGROUND²

A. Section 300 Petitions, Initial Hearing Report, and Detention Hearing

On March 24, 2015, the Santa Clara County Department of Family and Children's Services (the Department) filed a petition under section 300, subdivision (b) [failure to protect], alleging that the child, age 15 months, came within the jurisdiction of the juvenile court. The petition alleged the following facts.

The father had left the child in the care of a person who was suffering from acute symptoms of a mental illness and was under the influence of marijuana. The caretaker had allowed the child to "go his way," and the child was found wandering around in a parking lot, unattended. The caretaker had no contact information for the child's parents.

The father's criminal history included battery on a former spouse, infliction of corporal injury on a spouse or cohabitant, possession of controlled substance paraphernalia, and grand theft. The father had a history of substance abuse, having tested positive for methamphetamine in December of 2014 and having refused or failed to drug test on several occasions. Following the positive test, the father had declined to participate in Voluntary Family Maintenance services.

The mother also had a criminal history that included possession of a controlled substance, driving under the influence, using or being under the influence of a controlled substance, disorderly conduct, solicitation of a lewd act, and prostitution. The mother was a registered narcotics offender and the subject of a restraining order, as to which the

² This court granted judicial notice of the father's prior appeal in *In re E.L.* (March 16, 2016, H042777) [nonpub opn.]. Sections A through F and part of section G are taken directly from this court's prior opinion.

father was the protected person. The mother had participated in drug treatment programs but continued to abuse drugs. The mother had been diagnosed with Bipolar Disorder and had a history of psychiatric hospitalizations and holds but was not medication-compliant. The mother's three other children were no longer in her care: she had voluntarily placed one child for adoption; a second child was in the care of her paternal grandparents; and a third child was in the care of her father pursuant to dependency court orders.

An initial hearing report filed on March 25, 2015 reported that the child was in a foster home, where he was doing well. The father told the social worker that he wanted the child returned to him. He denied knowing about the mental illness or marijuana use of the caregiver with whom he had left the child. The father reported that he had obtained full custody of the child in family court. The mother confirmed she did not have custody of the child. The mother described the father as a daily methamphetamine user.

At the detention hearing held on March 25, 2015, the juvenile court found that continuance in the parental home would be contrary to the child's welfare and that removal from the parents' custody was necessary to protect the child's physical or emotional health. The court determined that a prima facie showing had been made that the child came within section 300, and it ordered the child detained. The court ordered supervised visitation for both parents for a minimum of two hours, two times per week.

A first amended section 300 petition was filed on April 22, 2015. The amended petition added an allegation that the father had declined a drug test on March 23, 2015 and tested positive for methamphetamine on March 27, 2015.

B. Jurisdiction/Disposition Reports and Jurisdiction Hearing

The Department filed a jurisdiction/disposition report dated April 16, 2015, recommending that both parents receive reunification services. At the time, the child remained in an emergency satellite foster home. The father had pending criminal charges including assault, hit and run, and vandalism. The father denied having a substance abuse problem. The social worker recommended that both parents undergo a domestic

violence assessment and a drug evaluation, and that the mother undergo a psychological evaluation and participate in counseling. The social worker also recommended both parents participate in parent education, drug test weekly, and attend AA/NA meetings at least three times per week. The social worker recommended supervised visitation for both parents, two times per week, for two hours at a time.

In an addendum report also dated April 16, 2015, the social worker reported that the father had failed to drug test on April 9, 2015. The social worker also reported on a number of police reports, including several involving domestic violence between the mother and the father.

In an addendum report dated May 8, 2015, the social worker reported on an April 16, 2015 interview of the parents. The mother had told the social worker that the father's positive drug test on March 27, 2015 was the result of her putting methamphetamine in a salt shaker. However, after the father left the room, the mother told the social worker that this was a lie; the father had asked her to make up that story.

On May 8, 2015, the mother submitted the petition on the Department's reports, and the juvenile court held a contested hearing as to the father. The juvenile court found the allegations of the first amended petition true.

C. Pre-Disposition Addendum Reports and Disposition Hearing

In an addendum report dated May 28, 2015, the social worker reported on statements made by the father. The father had expressed concern about the child's health and about the fact that the child had been placed with an African-American family. The social worker also reported that the father had undergone a drug evaluation, but that he had not yet started drug testing.

In an addendum report dated July 1, 2015, the social worker reported that the mother was in residential treatment. The father had not yet provided evidence of drug testing or participation in drug treatment or AA/NA meetings. During a visit with the child, the father "had to be redirected to not discuss the case on several occasions,

repeatedly clapped loudly at [the child] causing disturbance, and refused to discontinue videotaping the visit after being asked to do so.” The father had also “displayed several concerning behaviors” during a medical examination of the child. He had been uncooperative with the doctor and evaluator, asked inappropriate questions, raised his voice, and complained about the foster home, causing the appointment to take about two hours. The father had to be told that his behavior was upsetting to the child. The social worker recommended the father complete a psychological evaluation.

A contested disposition hearing was held on July 1, 2015. The juvenile court adopted the Department’s recommendations. The court declared the child a dependent of the court and ordered the child’s removal from the parent’s custody. The court adopted a case plan that required both parents to participate in the Parent Orientation Class, a parenting class, counseling, psychological evaluations, drug testing, a 12-step program, a substance abuse assessment and any recommended drug treatment program, an aftercare drug treatment program, and a domestic violence assessment. The juvenile court ordered both parents to have supervised visitation with the child two times per week for two hours per visit.

D. Restraining Orders Applications and Section 388 Petition

On July 6, 2015, the child’s attorney filed a request for a restraining order against the father. The request sought protection for the child, the child’s caregiver (a paternal second cousin), and the caregiver’s child (a paternal third cousin). The request alleged that on July 3, 2015, the caregiver learned that the father had been placed on a “51/50 hold” and was trying to locate the caregiver’s address. The police informed the caregiver that the father “had completely lost it.” The father was known to possess a gun.

The juvenile court issued a temporary restraining order and set a hearing for July 28, 2015.

On July 10, 2015, the Department submitted a request for a restraining order against the father, asking for protection of social worker Linda Plymale-Muratore. The

social worker submitted a declaration in support of the restraining order application. The social worker confirmed that the father had been placed on a mental health hold by the Los Gatos Police Department on July 3, 2015, after he had harassed and scared an employee at a flower shop by saying he was “looking for bullets for his gun amongst the flowers in the store.” The father had told the police that he was “the President of the United Planets of America” and had repeatedly stated that he “had to get his weapon.” The father had also made a threat to the paternal aunt, stating, “If I lose my baby I’m gonna shoot every last one of them. I’ll pick them off one by one. My dad is cleaning his guns.” The social worker further described the father’s “disturbing behaviors” during his supervised visits with the child, including a recent incident in which the father had run across the street “in front of moving traffic” to pick up traffic cones, while holding the child, “for no apparent reason.” The social worker also described the incidents in which the father had become disruptive during a doctor’s appointment, made loud clapping noises that scared the child, and expressed anger about the case.

The juvenile court issued a temporary restraining order and set a hearing for the same day as the other restraining order hearing: July 28, 2015.

Also on July 10, 2015, the Department filed a section 388 petition, in which it requested the juvenile court suspend the father’s visitation with the child.³ The social worker repeated the allegations made in her restraining order application concerning the flower shop incident, threats, and visitation incidents. The social worker asserted that visitation would be dangerous due to the father’s “poor emotional health and his volatile and dangerous behavior.”

³ Under section 388, subdivision (a)(1) a “person having an interest in a child who is a dependent child of the juvenile court . . . may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court . . . for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. . . .”

On July 13, 2015, the juvenile court issued an order suspending the father's visitation pending a hearing, which it also set for July 28, 2015.

On July 28, 2015, after the father requested a continuance, the Department and the child both sought reissuance of the temporary restraining orders against the father. The juvenile court reissued the temporary restraining orders, reset the combined hearing for July 31, 2015, and ordered the father to turn over his firearm, which the father asserted was in a gun safe at his mother's house.

In an addendum report filed on July 31, 2015, the Department reported on the status of the father's firearm. The father's mother had told the social worker there were no firearms currently at her home. The father's mother reported that her stepson might have taken the father's firearm many years earlier.

The Department also reported on the father's medication compliance. The father had told the social worker that he was not taking any psychotropic medications and that he did not believe he needed any such medications. The father was also not in therapy.

E. Hearing

A contested hearing on the restraining order applications and section 388 petition was held on July 31, 2015.

Social worker Plymale-Muratore testified on behalf of the Department and was designated an expert in risk assessment of dependent children. Plymale-Muratore had not supervised any of the father's visits with the child, but she had observed some of the visits. She had been present at the visit where the father had clapped loudly at the child's ear, as well as at the doctor's visit where the father had been uncooperative, disruptive, and agitated. A social worker who had supervised other visits told Plymale-Muratore about other concerning behavior by the father. The concerning behavior included the incident in which the father ran out into the street while holding the child.

To the social worker's knowledge, the father had not engaged in any aspect of his case plan. She believed suspension of visitation was in the child's best interests due to the father's unaddressed mental health issues and failure to participate in drug treatment.

The father testified on his own behalf. He acknowledged running across the street while holding the child during a visit but claimed it was "not irrational." He had tripped and fallen because of a hole in the lawn at the visitation site, and he had crossed the street in order to get cones to put around the hole so that no one else would trip and fall. The father submitted photos of holes in the lawn and cones.

The father then discussed his "5150 hold," asserting that a toxicology screen taken that day showed he was negative for methamphetamine and amphetamines but "off scale positive for phencyclidine [(PCP)]." Essentially, he had taken a "lethal dose" of PCP but had somehow survived. Defendant submitted documents including a lab report showing the presence of PCP. He did not know how he had ingested PCP, but he believed "somebody from the drug company" was trying to "eliminate" him due to his research and opposition to the chemicals used in vaccines.

The father explained why he had loudly clapped his hands near the child's ears during a visit. He had been attempting to show his mother and aunt that the child had hearing problems, which he believed were caused by vaccinations.

At the hearing, the child's attorney expressed her belief that the Department had met its burden on its section 388 petition. She agreed that visitation would be detrimental to the child due to the father's "significant mental health issues that need to be stabilized."

The mother's attorney argued that the Department had not made a sufficient showing to support the granting of the section 388 petition. She acknowledged the evidence of the father's erratic behavior but argued that "things" could be "put in place to ensure that the visits and the quality of visits are going well." She asserted that the

mother was doing well in “her own recovery and services” and believed that continued contact with the father was beneficial to the child.

The father indicated he had “no problem” with the issuance of restraining orders to protect “the adults,” but he asked the juvenile court not to suspend his visitation with the child. The father asserted that his drug history had been “blown out of proportion” and that his behavior was motivated by his sincere belief in the danger of vaccines.

F. Juvenile Court Findings and Orders

The trial court granted both requests for restraining orders, and it granted the section 388 petition in part. The court found, by clear and convincing evidence, that visits between the father and the child would pose a “serious risk of physical and emotional harm to the child.” The court explained it was concerned about the father’s drug use and his claim of not knowing how the drugs got into his system: “and so I’m concerned about ongoing substance abuse.” The court found that the father’s explanation for running across a street with the child did not make sense, that the flower shop incident was “very serious,” and that it appeared the father was not in control of the thoughts in his head. The court was very concerned about the father’s mental health and his behavior at the doctor’s appointment. The court was concerned about the father’s “prior criminal record for violence” and his claim that he owned a firearm, as well as his failure to surrender the firearm.⁴

⁴ The juvenile court later questioned the father further about the firearm. The father explained why he had previously claimed the gun was at his mother’s house. In 1989, he had been arrested, and his vehicle had been picked up by his stepfather and stepbrother. His stepbrother had stolen some items from the vehicle. The father had believed that his stepfather had put the gun in a safe, but he now realized that his stepbrother must have stolen the gun. The father claimed he did not have access to any other guns. However, the juvenile court found the father’s testimony inconsistent on this point and made a finding that the father had a gun that he had not surrendered.

The juvenile court ordered the father's visitation suspended until he participated in the psychological evaluation that had previously been ordered. The father appealed from the juvenile court's orders, and this court affirmed.

G. Further Proceedings

On August 31, 2015, the Department filed an interim review report. Neither parent had begun the Parent Orientation Class. The father had attended only one parenting class. Neither parent was participating in counseling. The mother had completed a psychological evaluation and the father's evaluation was scheduled. The mother had been drug testing, with negative results, but the father had not been testing. The mother had been participating in 12-step meetings, but the father had not provided any information about whether he was participating. The mother had completed inpatient drug treatment and had completed two sessions of outpatient service. The father had completed a drug assessment and had been referred for treatment, but he did not follow up. Overall, the mother had made "some progress" in her case plan, but the father had made no efforts to begin his case plan. The mother had been visiting with the child.

At a hearing held on August 31, 2015, the juvenile court continued its prior orders.

In an interim review report dated October 14, 2015, the Department reported that the mother was continuing to work on her case plan. The father was "partially compliant." The father had completed a parent orientation class and some parenting classes, although he had expressed reluctance to work on some of his issues. He had not started therapy or drug testing. He had participated in a domestic violence assessment and a psychological evaluation.

In the psychological evaluation, the evaluator reported that the father had "no gross cognitive deficits," but that he did have "acute emotional and thinking style impairments." The father suffered from an adjustment disorder, and he demonstrated a "distorted thinking process." He had a "persecutory ideation style" and presented a risk of becoming frustrated and aggressive; he needed to develop "a more open and receptive

style to the help that [was] being offered.” The evaluator recommended the father participate in a domestic violence program to help him understand his role in the domestic violence he had perpetrated in the past, a “structured parenting class” to help him build his parenting skills, individual therapy to give him a “useful emotional ally” while the stressful dependency proceedings were ongoing, and drug testing to ensure he remained sober.

The Department recommended the father be permitted to visit with the child once a week, for one hour at a time, under “close supervision and close monitoring,” as long as the social worker had discretion to terminate a visit if the father failed to follow the rules or behaved inappropriately.

At a hearing on October 21, 2015, the juvenile court adopted the Department’s recommendations, ordering the father to have supervised visitation with the child once a week for one hour at a time. The juvenile court signed an amended restraining order that permitted visitation with the child.

H. Status Review Report, Addendum Report, and Six-Month Review

In a status review report dated January 7, 2016, the Department recommended both parents continue to receive reunification services. The child, who was then two years old, was still living with a paternal cousin.

The father had been visiting with the child on a weekly basis at the Family Resource Center, and he had been “more peaceful and realistic” when interacting with the child and with the “professionals.” The father had completed a parenting class but had not yet begun drug testing or most of his other case plan activities. He had not begun attending individual therapy despite being provided with referrals “a number of times,” and he told the social worker he intended to find a private therapist. The father claimed he had begun attending AA/NA meetings, but he admitted he did not have a sponsor, and he had not provided any sign-in sheets to the social worker. The father had not begun attending outpatient substance abuse services, and his previous assessment and referral

had both expired, so he was informed that he needed to complete another assessment. The father had been provided with a list of referrals for a 52-week batterer's intervention program, but he had begun attending an online program he had found instead. The father indicated he would begin attending a parenting without violence class, and the social worker had provided him with a referral form so he could do so.

At a hearing on January 7, 2016, the father requested that his visitation be at least twice a week for two hours. The juvenile court set a further hearing for February 8, 2016.

In an addendum report dated February 4, 2016, the Department recommended increasing the father's visitation from one hour per week to two hours per week. The Department also reported that the online batterer's intervention program was not approved. The social worker had therefore referred the father to Family and Children's Services so he could participate in an approved program. The intake coordinator had communicated with the father twice, but the father "continued to deny any responsibility for perpetrating violence," so the intake coordinator had deemed him inappropriate for the program. The intake coordinator suggested that the father might need to address mental health issues in order to benefit from the program.

In the addendum report, the Department also reported on the father's participation in the parenting class he had completed in December 2015. He had been assessed as having made very little progress, with his scores reflecting "no understanding of concepts; not open to alternatives." The father had told the social worker that he did not believe he needed any counseling, drug treatment, or drug testing, but that he would try to participate in those services because he understood it was a court requirement.

At the six-month review hearing held on February 8, 2016, the father reiterated his request for his visitation to be increased to twice a week for two hours. The father also represented that he had participated in a new substance abuse assessment, that he had begun outpatient treatment, and that he had initiated communication regarding his mental health treatment.

At the end of the hearing, the juvenile court found a substantial probability that the child would be returned to the parents within the next six months and continued reunification services to the 12-month review hearing. The court ordered the father to have visitation with the child once a week for two hours per visit. The court further ordered that the social worker had discretion to increase the frequency and duration of the visits, to permit unsupervised visits, and to permit overnight visits.

The father filed a notice of appeal from the juvenile court's orders at the six-month review hearing.

I. Status Review Report, Addendum Report, and 12-Month Review

In a status review report dated April 26, 2016, the Department recommended that reunification services be terminated as to both parents and the matter be set for a selection and implementation hearing.

The father was visiting the child regularly, had completed individual therapy, had completed the substance abuse assessment, and had been participating in outpatient therapy. However, he had not drug tested or attended a batterer's intervention program. He continued to deny having any treatment needs.

The father had completed eight sessions with his therapist, who did not think the father had presented with any concerns to be addressed on an ongoing basis. The therapist was considering closing his case.

The father had been reminded about the need to drug test, and he had "often stated that he will start drug testing, soon." The father gave no excuse for his failure to test, and he expressed concerns about the accuracy of drug testing results at the facility that he was supposed to use.

The father had still not provided sign-in sheets to prove he had been attending AA/NA meetings. The father claimed to have a sponsor and provided the social worker with a name and phone number, but the phone number was not in service.

The father had completed a second substance abuse assessment, an intake assessment, and nine out of 12 sessions of treatment. He had been attending a parenting without violence class.

In an addendum report dated June 10, 2016, the Department changed its recommendation as to the mother, recommending that her reunification services be continued. The Department continued to recommend the father's reunification services be terminated.

The father had missed two parenting without violence classes and was terminated from the program. He still had not participated in drug testing. He still had not provided any AA/NA attendance sheets. He still had not participated in a batterer's treatment program.

The father had completed an outpatient substance abuse program called the Structured Recovery Program, which was designed for people who were not ready to acknowledge having any past or present substance abuse problems.

The father had cancelled three of his scheduled visits with the child, and he had "no-showed" for one visit. When he did visit with the child, he had difficulty following the social worker's directions, became agitated, and stopped the visit an hour early.

A contested 12-month review hearing was held on June 10, 2016. The social worker testified as an expert in risk assessment, placement, and reunification of dependent children. On direct examination, the social worker essentially reiterated the information in the status review and addendum reports.

On cross-examination, the social worker acknowledged he had not provided the father's therapist with a copy of the father's psychological evaluation or with any of the Department's reports, and that he had not told the therapist what areas the father was supposed to address in therapy. The social worker explained that he had been unaware the father was attending therapy until recently.

The juvenile court expressed concern that the father had participated in therapy with a therapist who did not have “all of the background information” needed, particularly since the father denied having any substance abuse or mental health issues. The social worker reiterated that he had not become aware that the father was seeing a therapist until after he had completed eight sessions.

The father argued that reunification services should be continued because the Department had not provided him with reasonable services. The father criticized the social worker for failing to provide the father’s therapist with the psychological evaluation, which would have been an “important tool” in addressing the father’s needs.

The child’s attorney asked the juvenile court to find that the father had been provided with reasonable services. The child’s attorney reminded the court that the case plan included many services that the Department had provided for the father besides therapy. The child’s attorney noted that the father had never told the social worker he was attending therapy and argued that, therefore, the social worker should not be faulted for failing to provide the therapist with information.

The juvenile court found the social worker’s testimony to be “credible and persuasive.” The court found it “clear” that there was no substantial probability the child could be returned to the father by the 18-month review date because the father had not made significant progress in resolving the problems that had led to the child’s removal, nor had he demonstrated the capacity and ability to complete the objectives of the case plan by that date.

The juvenile court found by clear and convincing evidence that the father had been provided with reasonable services. The court observed that a social worker’s failure to provide a psychological evaluation to a parent’s therapist will often lead to a finding that the parent was not provided with reasonable services, since the social worker is obligated to ensure the therapist understands why therapy has been ordered and can focus the therapy on the issues leading to the dependency. However, the court found, in this case

the father had not informed the social worker that he had found a therapist, which “essentially deprived the social worker of the opportunity to talk with the therapist at the outset and to provide the therapist with appropriate information.”

The juvenile court then adopted the Department’s recommendations, extending reunification services as to the mother but terminating them as to the father. The court noted that although the father had “participated in some services,” he had not engaged in others. Substance abuse was a “major issue,” but the father had never drug tested. Domestic violence was “a big issue,” but the father had not enrolled in a 52-week batterer’s intervention program. It was clear that the father suffered from some “very serious mental health issues,” but he had continued to be in denial about them.

The father filed a notice of appeal from the juvenile court’s orders at the 12-month review hearing. The father also filed a motion to consolidate his two appeals. This court denied the motion to consolidate, but ordered the two appeals to be considered together for the purposes of briefing, oral argument, and decision.

III. DISCUSSION

The father contends the juvenile court erred when, at the 12-month review hearing, it found that the Department had provided him with reasonable services. Before evaluating the father’s contentions, we will provide an overview of the applicable legal principles and standard of review.

A. Legal Principles

Section 361.5, subdivision (a) generally mandates that reunification services are to be provided whenever a child is removed from the parents’ custody. (See *In re Luke L.* (1996) 44 Cal.App.4th 670, 678.)

When a child is under three years of age at the time of removal, reunification services are presumptively limited to six months. (§ 361.5, subd. (a)(1)(B).)

Reunification services may be extended up to 18 months from the date of removal if the

juvenile court finds a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within that extended time period or that reasonable services have not been provided to the parent or guardian. (*Id.*, subd. (a)(3).)

“Reunification services must be ‘designed to eliminate those conditions that led to the court’s finding that the child is a person described by Section 300.’ (§ 362, subd. (c).) Accordingly, a reunification plan must be appropriately based on the particular family’s ‘unique facts.’ [Citation.]” (*In re T.G.* (2010) 188 Cal.App.4th 687, 696.) “ ‘ “[T]he record should show that the [Department] identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult. . . .” [Citation.]’ [Citation.]” (*Id.* at p. 697.)

“The adequacy of reunification plans and the reasonableness of the [Department’s] efforts are judged according to the circumstances of each case.” (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164.) That additional services might have been possible, or that the services provided were not the services the parent thought were best for the family, does not render the services offered or provided inadequate. “The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547 (*Misako R.*).)

On appeal, the applicable standard of review is substantial evidence. (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 688.) “In reviewing the reasonableness of the services provided, this court must view the evidence in a light most favorable to the [Department]. We must indulge in all legitimate and reasonable inferences to uphold the [juvenile court’s findings]. If there is substantial evidence supporting the judgment, our duty ends and the judgment must not be disturbed.” (*Misako R.*, *supra*, 2 Cal.App.4th at p. 545.) “We have no power to judge the effect or value of the evidence, to weigh the

evidence, to consider the credibility of witnesses or to resolve conflicts in the evidence or the reasonable inferences which may be drawn from that evidence.” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.)

B. Analysis

1. Case No. H043373 (Six-Month Review Orders)

The father does not assert any claim related to the orders made at the six-month review hearing. The Department thus argues that this court should dismiss the father’s appeal in case No. H043373. The father does not argue otherwise, and we agree that the appeal in case No. H043373 should be dismissed as abandoned.

2. Case No. H043661 (12-Month Review Orders)

As noted above, the father contends the juvenile court erred by finding that reasonable services had been provided when it terminated his reunification services at the 12-month review hearing. Specifically, he contends the services were not reasonable because the social worker failed to provide his therapist with court records and the psychological evaluation. According to the father, the social worker should have asked if he was participating in therapy between February 2016, when the father indicated he had initiated communication regarding his mental health treatment, and April 2016, when the father had completed therapy. The father further contends that the social worker should have provided the therapist with the appropriate documents and encouraged ongoing treatment after learning that the father had been in therapy.

The father relies primarily on three cases to support his claim that he was not provided with reasonable services. In each of those cases, the appellate court found no substantial evidence to support a reasonable services finding due to the agency’s failure to provide the parent with assistance in addressing mental health issues or counseling aspects of the case plan.

The mother in *Patricia W. v. Superior Court* (2016) 244 Cal.App.4th 397 (*Patricia W.*) had serious mental health issues but failed to take her medication, which

caused her to suffer from dangerous delusions and hallucinations. The mother's case plan did not include a psychological evaluation, and the social worker did not make efforts to obtain a clear diagnosis of the mother's mental illness, determine whether the mother was taking the right medication, or confirm that the mother had been taking her medication during the reunification period. (*Id.* at pp. 423-424.) Although it was clear that the mother's medication compliance was of paramount importance, the social worker failed to make an "effort to ascertain how [the] mother could better manage her medications." (*Id.* at p. 425.)

Similarly, *In re K.C.* (2012) 212 Cal.App.4th 323 (*K.C.*), the father's mental health issues led to the removal of his child, but the Department failed to make reasonable efforts to address the father's likely medication needs. In *K.C.*, the father's mental illness was undiagnosed. A psychological evaluation conducted as part of his case plan recommended he undergo an evaluation for psychotropic medication. (*Id.* at p. 326.) The father expressed resistance to taking medication but did agree to undergo the recommended evaluation. (*Id.* at pp. 326-327.) The social worker referred the father to a clinic, but after he reported that he was unable to obtain the evaluation at that clinic, the social worker made no attempt to obtain the evaluation for him elsewhere. (*Id.* at p. 329.)

Domestic violence was the problem leading to the dependency in *In re Taylor J.* (2014) 223 Cal.App.4th 1446 (*Taylor J.*). In that case, the mother's case plan required her to participate in individual counseling and a domestic violence support group. The agency provided the mother with referral lists, but the lists did not contain any providers of individual adult counseling, and only one provider was identified as providing domestic violence services. (*Id.* at p. 1448.) The mother told the social worker she was participating in counseling, and it took the social worker a year to discover that the counseling was related to employment and school rather than therapeutic counseling. (*Id.* at p. 1452.) After the mother told the social worker she was participating in an online

domestic violence class, the social worker made no efforts to help her find a face-to-face class. (*Ibid.*)

In contrast to *Patricia W.*, the case plan here included a psychological evaluation, and the evaluator did not recommend the father be treated with medication or even—as in *K.C.*—evaluated for possible treatment with psychotropic medication. The psychological evaluation also did not indicate that father’s mental health issues prevented him from complying with his case plan. Moreover, unlike in *Patricia W.* and *K.C.*, the father’s mental health issues were not the sole reason for the dependency. Here, the problems also included substance abuse and domestic violence, both of which were addressed by the father’s case plan. And unlike in *Taylor J.*, the social worker here provided the father with referrals for appropriate classes and programs, and the social worker referred the father to an in-person batterer’s treatment program after learning the father had been participating in an online class.

The record does not support the father’s claim that the services were unreasonable because the social worker failed to timely discover that the father was seeing a therapist, failed to provide the therapist with court records and the psychological evaluation, and failed to encourage ongoing therapy. The social worker was in contact with the father throughout the reunification period and reminded the father about the services he needed to complete. Yet the father did not inform the social worker that he had been seeing a therapist until after eight sessions, when the therapist was ready to close the case. Certainly, the social worker could have asked the father whether he was seeing a therapist at an earlier point in time, but it was not unreasonable for the social worker to expect the father to have provided the information. The services were also not rendered unreasonable because the social worker did not provide the therapist with information or encourage ongoing therapy. By the time the social worker discovered that the father had been seeing a therapist, it was the end of the extended 12-month reunification period (see § 361.5, subd. (a)(1)(B)) and the father had not complied with many other aspects of his

case plan, including most of the aspects addressing substance abuse and domestic violence.

In a footnote, the father also complains that the social worker did not follow up regarding the father's parenting class "to ascertain Father's level of participation or success in the program." At the hearing, the social worker testified that he had received an evaluation from the class facilitator, which contained "the details of how he performed," and that usually there was no follow-up. The father does not explain how further follow-up by the social worker would have been helpful to his reunification.

Also in a footnote, the father complains that the social worker did not "initiate a new referral" after the father was terminated from the parenting without violence program. But the social worker testified that he had been unable to initiate a new referral because he had been informed about the father's termination from that program only a few days earlier. The father also criticizes the social worker for not giving him a new referral after learning he had not been accepted into the Family and Children's Services batterer's intervention program. However, the record reflects that the social worker and the social worker's supervisor both spoke with the father and encouraged him to make further attempts to enroll in the program.

Substantial evidence supports the juvenile court's reasonable services finding. (See *Misako R.*, *supra*, 2 Cal.App.4th at p. 545.) The dependency proceedings in the instant case began in March of 2015, when the father left the child with a caretaker who was mentally ill and under the influence of marijuana. The Department's investigation revealed that the father had a substance abuse problem, that he had engaged in domestic violence with the mother, and that he might have mental health issues. The case plan adopted in July of 2015 addressed all of these issues; it included parenting classes, individual counseling, a psychological evaluation, drug testing, a 12-step program, a substance abuse assessment, and a domestic violence assessment. The Department provided the father with referrals to programs designed to address all the components of

the case plan, and there was no indication the father was unable to follow through on the referrals for any reason, including his mental health. In fact, the father did follow through on some of the referrals—for instance, by attending parenting classes—but throughout the proceedings he failed to address the substance abuse and domestic violence aspects of his case plan, which required him to drug test and attend an approved batterer’s intervention program. Throughout the dependency proceedings, the father repeatedly denied having the very problems that led to the child’s removal. Despite being offered services to address the identified problems, the father failed to acknowledge the problems and engage in the case plan.

It is “well established that ‘[r]eunification services are voluntary, and cannot be forced on an unwilling or indifferent parent. [Citation.]’ [Citation.]” (*In re Christina L.* (1992) 3 Cal.App.4th 404, 414 (*Christina L.*)). “The requirement that reunification services be made available to help a parent overcome those problems which led to the dependency of his or her minor children is not a requirement that a social worker take the parent by the hand and escort him or her to and through classes or counseling sessions.” (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1463, fn. 5.) Even where a parent suffers from a developmental disability, emotional problems, or mental illness, that parent “is not excused from the statutory requirement of a reunification plan. . . . Some capacity on the part of the parent to comply with an appropriate reunification plan is presumed.” (*Christina L., supra*, at p. 415.) Here, the father demonstrated the capacity to engage in the case plan, which included reasonable services, but he failed to do so.

IV. DISPOSITION

In case No. H043373, the appeal is dismissed as abandoned.

In case No. H043661, the juvenile court’s June 10, 2016 order is affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MIHARA, J.

In re E.L.; DFCS v. D.R.

H043373

H043661